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SENATE BILL 557

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO ETHICS; ENACTING THE STATE ETHICS COMMISSIONS ACT;
CREATING THE LEGISLATIVE ETHICS COMMISSION; CREATING THE
EXECUTIVE ETHICS COMMISSION; CREATING THE PUBLIC OFFICER ETHICS
COMMISSION; PROVIDING POWERS AND DUTIES; PROVIDING FOR ANNUAL
ETHICS TRAINING AND THE PUBLICATION OF ETHICS GUIDES; GRANTING
SUBPOENA POWER; ALLOWING ISSUANCE OF ADVISORY OPINIONS RELATED
TO CERTAIN ETHICS VIOLATIONS; PROVIDING FOR THE FILING OF
COMPLAINTS AGAINST STATE OFFICIALS, STATE EMPLOYEES, GOVERNMENT
CONTRACTORS AND LOBBYISTS FOR CERTAIN ETHICS VIOLATIONS;
ESTABLISHING INVESTIGATIONS OF COMPLAINTS FOR CERTAIN ETHICS
VIOLATIONS; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"State Ethics Commissions Act".

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1 Section 2. DEFINITIONS.--As used in the State Ethics
2 Commissions Act:

3 A. "commission" means the legislative ethics
4 commission, the executive ethics commission or the public
5 officer ethics commission;

6 B. "ethics violation" means any action that amounts
7 to a violation of the Governmental Conduct Act, the Procurement
8 Code, the Lobbyist Regulation Act, the Financial Disclosure Act
9 or Chapter 1, Article 19 NMSA 1978;

10 C. "government contractor" means a person who has a
11 contract with a state agency pursuant to the Procurement Code,
12 including any person who has submitted a competitive sealed
13 proposal or competitive sealed bid for a contract with a state
14 agency;

15 D. "legislative body" means the house of
16 representatives or the senate;

17 E. "lobbying" means attempting to influence:

18 (1) a decision related to any matter to be
19 considered or being considered by the legislative branch of
20 state government or any legislative committee or to any
21 legislative matter requiring action by the governor or awaiting
22 action by the governor; or

23 (2) an official action;

24 F. "lobbyist" means a person who is compensated for
25 the specific purpose of lobbying; is designated by an interest

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1 group or organization to represent it on a substantial or
2 regular basis for the purpose of lobbying; or who, in the course
3 of the person's employment, is engaged in lobbying on a
4 substantial or regular basis, but "lobbyist" does not include:

5 (1) a person who appears on the person's own
6 behalf in connection with legislation or an official action;

7 (2) an elected or appointed officer of the
8 state, a political subdivision of the state or an Indian nation,
9 tribe or pueblo who is acting in the officer's official
10 capacity;

11 (3) an employee of the state or a political
12 subdivision of the state, specifically designated in writing by
13 an elected or appointed officer, who appears before a
14 legislative committee or in a rulemaking proceeding only to
15 explain the effect of legislation or rule on that employee's
16 agency or political subdivision; provided that the elected or
17 appointed officer keeps the designation for public inspection
18 and files it with the secretary of state;

19 (4) a designated member of the staff of an
20 elected state official; provided that the elected state official
21 keeps the designation for public inspection and files it with
22 the secretary of state;

23 (5) a legislator or legislative staff member;

24 (6) a witness called by a legislative
25 committee or administrative agency to appear before it in

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1 connection with legislation or an official action;

2 (7) a person who provides only oral or written
3 public testimony in connection with a legislative committee or
4 in a rulemaking proceeding and whose name and the interest on
5 behalf of which the person testifies have been clearly and
6 publicly identified; or

7 (8) a publisher, owner, contractor or employee
8 of the print media, radio or television, while gathering or
9 disseminating news or editorial comment to the general public in
10 the ordinary course of business;

11 G. "official action" means an action or nonaction of
12 a state official or state agency, board or commission acting in
13 a rulemaking proceeding;

14 H. "public officer" means the secretary of state,
15 state auditor, state treasurer, attorney general, commissioner
16 of public lands or a commissioner of the public regulation
17 commission;

18 I. "respondent" means a state official, state
19 employee, government contractor or lobbyist who is the subject
20 of a complaint filed with the commission;

21 J. "state agency" means a department, commission,
22 council, board, committee, institution, agency, government
23 corporation, educational institution or official of the
24 executive or legislative branch of government of the state;

25 K. "state employee" means an employee of the

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1 executive or legislative branches of the state or of a state
2 agency, but "state employee" does not include a judge or
3 justice, whether elected or appointed, of any court; and

4 L. "state official" means a person elected or
5 appointed to an office of the executive or legislative branch of
6 the state, but does not include a public officer.

7 Section 3. LEGISLATIVE ETHICS COMMISSION CREATED--
8 MEMBERSHIP--TERMS--REMOVAL.--

9 A. The "legislative ethics commission" is created as
10 an adjunct agency. The commission has jurisdiction in matters
11 pursuant to the State Ethics Commissions Act involving an
12 elected or appointed legislator, an employee of the legislature,
13 a government contractor that has a contract with a legislative
14 agency or a lobbyist lobbying the legislative branch.

15 B. The legislative ethics commission consists of the
16 following nine members:

17 (1) three members appointed by the governor,
18 no more than two of whom shall be of the same political party;

19 (2) one member appointed by the majority floor
20 leader of the senate;

21 (3) one member appointed by the minority floor
22 leader of the senate;

23 (4) one member appointed by the majority floor
24 leader of the house of representatives;

25 (5) one member appointed by the minority floor

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1 leader of the house of representatives; and

2 (6) two members appointed by the chief justice
3 of the supreme court, who shall not be of either of the two
4 largest major political parties.

5 C. Members of the commission shall be appointed for
6 staggered terms of four years. Upon initial appointment of the
7 commission, the members shall draw lots to determine which three
8 members will serve an initial term of two years, which three
9 members will serve an initial term of three years and which
10 three members will serve an initial term of four years;
11 thereafter, all members shall serve four-year terms. A person
12 shall not serve as a commission member for more than two
13 consecutive terms.

14 D. Appointments shall be made in a manner that meets
15 the following requirements:

16 (1) at least five members shall be appointed
17 from the five public regulation commission districts so that
18 each district is represented; and

19 (2) no more than four members shall be
20 registered members of the same political party, and no person
21 whose party registration changed in the year prior to
22 appointment shall be appointed to the commission.

23 E. The commission shall select a chair and vice
24 chair.

25 F. Five members of the commission constitute a

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1 quorum for the transaction of business. No action shall be
2 taken by the commission unless at least five members concur.

3 G. A vacancy on the commission shall be filled by
4 appointment of the appointing authority for that member's
5 position for the remainder of the unexpired term. A commission
6 member may only be removed for incompetence, neglect of duty or
7 malfeasance in office. The supreme court of New Mexico has
8 exclusive jurisdiction over proceedings to remove commission
9 members, and its decision shall be final. A member shall be
10 given notice of hearing and an opportunity to be heard before
11 the member is removed.

12 H. During a member's service, a member shall not:

13 (1) hold or seek an elective public office, an
14 appointed public position or an office in a political party; or

15 (2) be a state employee, a government
16 contractor or a lobbyist.

17 I. Members shall recuse themselves from any
18 commission proceeding that involves the appointing authority who
19 appointed the member to the commission in order to avoid the
20 appearance of impropriety or a conflict of interest.

21 J. For a period of one calendar year immediately
22 preceding a member's term and immediately following the
23 expiration of a member's term, the member of the commission
24 shall not:

25 (1) hold or seek an elective public office, an

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1 appointed public position or public employment;

2 (2) represent a person or entity who appears
3 before the commission; provided that a member may appear on the
4 member's own behalf; or

5 (3) accept employment or otherwise provide
6 services to a person or entity who appears before the commission
7 during the year.

8 K. Members are entitled to receive per diem and
9 mileage as provided in the Per Diem and Mileage Act and shall
10 receive no other compensation, perquisite or allowance.

11 L. The commission shall meet as necessary to carry
12 out its duties pursuant to the State Ethics Commissions Act.

13 Section 4. EXECUTIVE ETHICS COMMISSION CREATED--
14 MEMBERSHIP--TERMS--REMOVAL.--

15 A. The "executive ethics commission" is created as
16 an adjunct agency. The commission has jurisdiction in matters
17 pursuant to the State Ethics Commissions Act involving an
18 elected or appointed member of the executive, an employee of the
19 executive, a government contractor that has a contract with an
20 executive agency or a lobbyist lobbying the executive.

21 B. The executive ethics commission consists of the
22 following nine members:

23 (1) two members appointed by the governor, who
24 shall not be of the same political party;

25 (2) one member appointed by the majority floor

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1 leader of the senate;

2 (3) one member appointed by the minority floor
3 leader of the senate;

4 (4) one member appointed by the majority floor
5 leader of the house of representatives;

6 (5) one member appointed by the minority floor
7 leader of the house of representatives; and

8 (6) three members appointed by the chief
9 justice of the supreme court, two of whom shall be of each of
10 the two largest major political parties and one of whom shall
11 not be of either of the two largest major political parties.

12 C. Members of the commission shall be appointed for
13 staggered terms of four years. Upon initial appointment of the
14 commission, the members shall draw lots to determine which three
15 members will serve an initial term of two years, which three
16 members will serve an initial term of three years and which
17 three members will serve an initial term of four years;
18 thereafter, all members shall serve four-year terms. A person
19 shall not serve as a commission member for more than two
20 consecutive terms.

21 D. Appointments shall be made in a manner that meets
22 the following requirements:

23 (1) at least five members shall be appointed
24 from the five public regulation commission districts so that
25 each district is represented; and

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1 (2) no more than four members shall be
2 registered members of the same political party, and no person
3 whose party registration changed in the year prior to
4 appointment shall be appointed to the commission.

5 E. The commission shall select a chair and vice
6 chair.

7 F. Five members of the commission constitute a
8 quorum for the transaction of business. No action shall be
9 taken by the commission unless at least five members concur.

10 G. A vacancy on the commission shall be filled by
11 appointment of the appointing authority for that member's
12 position for the remainder of the unexpired term. A commission
13 member may only be removed for incompetence, neglect of duty or
14 malfeasance in office. The supreme court of New Mexico has
15 exclusive jurisdiction over proceedings to remove commission
16 members, and its decision shall be final. A member shall be
17 given notice of hearing and an opportunity to be heard before
18 the member is removed.

19 H. During a member's service, a member shall not:

20 (1) hold or seek an elective public office, an
21 appointed public position or an office in a political party; or

22 (2) be a state employee, a government
23 contractor or a lobbyist.

24 I. Members shall recuse themselves from any
25 commission proceeding that involves the appointing authority who

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1 appointed the member to the commission in order to avoid the
2 appearance of impropriety or a conflict of interest.

3 J. For a period of one calendar year immediately
4 preceding a member's term and immediately following the
5 expiration of a member's term, the member of the commission
6 shall not:

7 (1) hold or seek an elective public office, an
8 appointed public position or public employment;

9 (2) represent a person or entity who appears
10 before the commission; provided that a member may appear on the
11 member's own behalf; or

12 (3) accept employment or otherwise provide
13 services to a person or entity who appears before the commission
14 during the year.

15 K. Members are entitled to receive per diem and
16 mileage as provided in the Per Diem and Mileage Act and shall
17 receive no other compensation, perquisite or allowance.

18 L. The commission shall meet as necessary to carry
19 out its duties pursuant to the State Ethics Commissions Act.

20 Section 5. PUBLIC OFFICER ETHICS COMMISSION CREATED--
21 MEMBERSHIP--TERMS--REMOVAL.--

22 A. The "public officer ethics commission" is created
23 as an adjunct agency. The commission has jurisdiction in
24 matters pursuant to the State Ethics Commissions Act involving
25 an elected or appointed public officer, an employee of a public

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1 officer, a government contractor that has a contract with a
2 public officer or a lobbyist lobbying the public officer.

3 B. The public officer ethics commission consists of
4 the following nine members:

5 (1) three members appointed by the governor,
6 two of whom shall be of each of the two largest major political
7 parties and one of whom shall not be of either of the two
8 largest major political parties;

9 (2) one member appointed by the majority floor
10 leader of the senate;

11 (3) one member appointed by the minority floor
12 leader of the senate;

13 (4) one member appointed by the majority floor
14 leader of the house of representatives;

15 (5) one member appointed by the minority floor
16 leader of the house of representatives; and

17 (6) two members appointed by the chief justice
18 of the supreme court, who shall not be of the same political
19 party.

20 C. Members of the commission shall be appointed for
21 staggered terms of four years. Upon initial appointment of the
22 commission, the members shall draw lots to determine which three
23 members will serve an initial term of two years, which three
24 members will serve an initial term of three years and which
25 three members will serve an initial term of four years;

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1 thereafter, all members shall serve four-year terms. A person
2 shall not serve as a commission member for more than two
3 consecutive terms.

4 D. Appointments shall be made in a manner that meets
5 the following requirements:

6 (1) at least five members shall be appointed
7 from the five public regulation commission districts so that
8 each district is represented; and

9 (2) no more than four members shall be
10 registered members of the same political party, and no person
11 whose party registration changed in the year prior to
12 appointment shall be appointed to the commission.

13 E. The commission shall select a chair and vice
14 chair.

15 F. Five members of the commission constitute a
16 quorum for the transaction of business. No action shall be
17 taken by the commission unless at least five members concur.

18 G. A vacancy on the commission shall be filled by
19 appointment of the appointing authority for that member's
20 position for the remainder of the unexpired term. A commission
21 member may only be removed for incompetence, neglect of duty or
22 malfeasance in office. The supreme court of New Mexico has
23 exclusive jurisdiction over proceedings to remove commission
24 members, and its decision shall be final. A member shall be
25 given notice of hearing and an opportunity to be heard before

1 the member is removed.

2 H. During a member's service, a member shall not:

3 (1) hold or seek an elective public office, an
4 appointed public position or an office in a political party; or

5 (2) be a state employee, a government
6 contractor or a lobbyist.

7 I. Members shall recuse themselves from any
8 commission proceeding that involves the appointing authority who
9 appointed the member to the commission to avoid the appearance
10 of impropriety or a conflict of interest.

11 J. For a period of one calendar year immediately
12 preceding a member's term and immediately following the
13 expiration of a member's term, the member of the commission
14 shall not:

15 (1) hold or seek an elective public office, an
16 appointed public position or public employment;

17 (2) represent a person or entity who appears
18 before the commission; provided that a member may appear on the
19 member's own behalf; or

20 (3) accept employment or otherwise provide
21 services to a person or entity who appears before the commission
22 during the year.

23 K. Members are entitled to receive per diem and
24 mileage as provided in the Per Diem and Mileage Act and shall
25 receive no other compensation, perquisite or allowance.

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1 L. The commission shall meet as necessary to carry
2 out its duties pursuant to the State Ethics Commissions Act.

3 Section 6. COMMISSIONS--POWERS--DUTIES.--

4 A. Each commission shall:

5 (1) receive and investigate complaints against
6 public officers, state officials, state employees, government
7 contractors and lobbyists of alleged ethics violations, as
8 appropriate for each commission's respective jurisdiction;

9 (2) report findings if there is clear and
10 convincing evidence that a respondent's conduct constituted an
11 ethics violation to the respondent's appointing authority,
12 employer or appropriate state agency or legislative body;

13 (3) compile, maintain and provide public
14 access to an index of its advisory opinions, complaints and
15 reports required to be made public pursuant to the State Ethics
16 Commissions Act;

17 (4) compile, adopt, publish and provide to all
18 public officers, state officials, state employees, government
19 contractors and lobbyists an ethics guide that clearly and
20 plainly explains the ethics requirements set forth in state law;

21 (5) compile, adopt, publish and provide to all
22 public officers, state officials, state employees, government
23 contractors and lobbyists a business ethics guide that clearly
24 and plainly explains the ethics requirements set forth in state
25 law as they relate to conducting business with the state;

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1 (6) provide annual ethics training to all
2 public officers, state officials, state employees, government
3 contractors and lobbyists;

4 (7) develop, adopt and promulgate all rules
5 necessary to implement and administer the provisions of the
6 State Ethics Commissions Act, including rules of procedure for
7 investigations conducted by the respective commission;

8 (8) employ an executive director;

9 (9) submit an annual report of its activities,
10 including any recommendations regarding state ethics laws or the
11 scope of its powers and duties, in December of each year to the
12 governor, the legislature and the chief justice of the supreme
13 court; and

14 (10) promulgate rules for the recusal of
15 members to avoid the appearance of impropriety and conflicts of
16 interest.

17 B. Each commission may:

18 (1) recommend disciplinary actions for ethics
19 violations in accordance with the provisions of the State Ethics
20 Commissions Act;

21 (2) subpoena and require the attendance of
22 witnesses and the production of accounts, books, papers, records
23 and other documents relevant to an investigation conducted by
24 the commission;

25 (3) issue advisory opinions to public

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1 officers, state officials, state employees, government
2 contractors and lobbyists in accordance with the provisions of
3 the State Ethics Commissions Act; and

4 (4) contract for the provisions of goods and
5 services.

6 Section 7. EXECUTIVE DIRECTOR--DUTIES--EMPLOYMENT.--

7 A. The executive director of each commission shall:

8 (1) be employed by, report directly to and
9 serve at the pleasure of the commission;

10 (2) hire a general counsel for the commission
11 and all other personnel as may be necessary to carry out the
12 responsibilities of the commission;

13 (3) perform all investigations on behalf of
14 the commission;

15 (4) bring complaints and investigation results
16 before the commission;

17 (5) prepare an annual budget for the
18 commission and submit it to the commission for approval; and

19 (6) make recommendations to the commission of
20 proposed rules or legislative changes needed to provide better
21 administration of the State Ethics Commissions Act.

22 B. An executive director of a commission may
23 administer oaths and take depositions to the same extent and
24 subject to the same limitations as would apply if the
25 depositions were held pursuant to the discovery rules in a civil

1 action in the district court.

2 C. For a period of one calendar year immediately
3 preceding the term of an executive director and immediately
4 following the expiration of the term of an executive director,
5 the executive director shall not:

6 (1) hold or seek an elective public office, an
7 appointed public position or public employment;

8 (2) represent a person or entity who appears
9 before the commission, unless appearing on the executive
10 director's own behalf;

11 (3) accept employment or otherwise provide
12 services to a person or entity who appears before the commission
13 during the year;

14 (4) hold or seek an office in a political
15 party; or

16 (5) be a state employee, a government
17 contractor or a lobbyist.

18 Section 8. COMMISSIONS--ADVISORY OPINIONS.--

19 A. Each commission may issue an advisory opinion to
20 a public officer, state official, state employee, government
21 contractor or lobbyist on matters relating to a specific set of
22 circumstances involving ethics violations. Unless amended or
23 revoked, an advisory opinion issued by the commission shall be
24 binding on the commission in any subsequent commission
25 proceedings concerning the person who requested the opinion;

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1 provided that the person acted in good faith and in reliance
2 upon the opinion.

3 B. Each commission shall promulgate rules for
4 issuing advisory opinions; provided that:

5 (1) advisory opinions shall be requested in
6 writing and identify a specific set of circumstances involving
7 an ethics issue;

8 (2) all requests to the commission for
9 advisory opinions are confidential; and

10 (3) the commission may publish an advisory
11 opinion after redacting the name of the requesting state
12 official, state employee, government contractor or lobbyist.

13 Section 9. COMMISSIONS--COMPLAINTS--INVESTIGATIONS--
14 FINDINGS AND RECOMMENDATIONS--REPORTS REQUIRED--CRIMINAL
15 REFERRAL REQUIRED.--

16 A. A person who has actual knowledge of an alleged
17 ethics violation committed by a public officer, state official,
18 state employee, government contractor or lobbyist may file a
19 complaint with the commission. The complaint shall be signed
20 under penalty of false statement and shall set forth in detail
21 the specific charges against the state official, state employee,
22 government contractor or lobbyist and the factual allegations
23 that support the charges. Together with the complaint, a person
24 shall submit to the appropriate commission any evidence that the
25 person has that supports the complaint. Evidence may include

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1 documents, records and the names of witnesses. Each commission
2 may prescribe the forms on which complaints are to be filed.

3 B. Upon receipt of a complaint filed pursuant to
4 this section, the executive director of a commission shall
5 review the complaint and make an initial determination as to
6 whether the conduct alleged in the complaint is within the
7 jurisdiction of the commission. If the executive director
8 determines that the alleged conduct is not within the
9 commission's jurisdiction, the executive director shall
10 recommend to the commission that it dismiss the complaint or, if
11 the complaint is or appears to be within the jurisdiction of a
12 different commission, the executive director shall refer it to
13 the appropriate commission. The commission may dismiss the
14 complaint upon the recommendation of the executive director or
15 instruct the executive director to initiate an investigation of
16 the complaint. Nothing in this subsection shall be construed to
17 prevent another commission from considering a dismissed
18 complaint if the complaint is within the jurisdiction of the
19 other commission.

20 C. If a commission decides to investigate the
21 complaint or the executive director determines that the alleged
22 conduct is within the commission's jurisdiction, the executive
23 director shall initiate an investigation to determine whether
24 probable cause may exist to believe the respondent's alleged
25 conduct constituted an ethics violation. As soon as

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1 practicable, the executive director shall notify the person who
2 filed the complaint and the respondent of the disposition of the
3 complaint. The executive director shall also notify the
4 respondent of the general nature of the complaint and the
5 investigation.

6 D. As part of the investigation, an executive
7 director may interview witnesses and examine books, documents,
8 records and papers reasonably related to the complaint. All
9 testimony in an investigation shall be under oath, and the
10 respondent shall have the right to be represented by legal
11 counsel. If the executive director determines that the
12 testimony of any person or the production of books, documents,
13 records or papers is required in the investigation, the
14 executive director shall request that the commission issue the
15 appropriate subpoena.

16 E. A commission may issue subpoenas for the
17 attendance and testimony of witnesses or the production of
18 books, documents, records and papers reasonably related to the
19 complaint. Subpoenas may be signed by the chair of the
20 commission, upon approval of the commission, and shall state
21 with reasonable certainty the nature of the investigation, the
22 nature of the information to be produced, the time and place
23 where the information shall be produced and the consequences of
24 failure to obey the subpoena. After service of the subpoena
25 upon the person, if the person neglects or refuses to comply

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1 with the subpoena, the commission may apply to a district court
2 for an order compelling compliance.

3 F. An executive director shall present a written
4 report of the investigation to the commission. The respondent
5 and the respondent's legal counsel may attend the meeting, and
6 the executive director shall provide reasonable notice to the
7 respondent in writing of the date, time and place of the
8 meeting. Notwithstanding the provisions of the Open Meetings
9 Act, meetings of the commission held for the purpose of an
10 investigation conducted pursuant to this section are closed to
11 the public. Except as otherwise provided in Subsections G, H
12 and I of this section, all complaints, communications, records
13 or other information related to an investigation shall be
14 confidential.

15 G. If a commission finds that, based on the facts in
16 the investigation report and the facts alleged in the complaint,
17 probable cause exists to believe that the respondent's alleged
18 conduct constituted an ethics violation, the commission shall
19 report its finding in writing to the respondent's appointing
20 authority, employer or appropriate state agency or legislative
21 body. The written finding may include recommendations for
22 disciplinary action or further proceedings against the
23 respondent. The commission shall also provide the respondent's
24 appointing authority, employer or appropriate state agency or
25 legislative body with all evidence collected during its

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1 investigation; provided that the receiving authority, employer
2 or state agency or legislative body agrees that the evidence
3 remain confidential until such time as it is offered into
4 evidence at any subsequent proceeding instituted to take action
5 against the respondent by the authority, employer or state
6 agency or legislative body. A commission finding reported
7 pursuant to this subsection shall not be public.

8 H. If a commission finds that, based on the facts in
9 the investigation report and the facts alleged in the complaint,
10 probable cause does not exist to believe that the respondent's
11 alleged conduct constituted an ethics violation, the commission
12 shall dismiss the complaint and notify the respondent in writing
13 of the dismissal no later than five days after the finding is
14 made. Following a dismissal and upon the request of the
15 respondent, the commission shall provide a report of its finding
16 in writing to the respondent. A commission finding issued
17 pursuant to this subsection shall not be public except upon the
18 request of the respondent; provided that the finding shall not
19 disclose any confidential communications, records or other
20 information collected during the investigation.

21 I. If a commission finds at any time that the
22 respondent's conduct may amount to a criminal violation of state
23 law, the commission shall immediately refer the matter to the
24 attorney general or an appropriate district attorney. The
25 commission shall provide the attorney general or district

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1 attorney with all evidence collected during its investigation
2 that may be used in a criminal proceeding. Nothing in this
3 subsection shall prevent the commission from taking any action
4 otherwise provided in this section.

5 J. No complaint shall be filed pursuant to this
6 section later than three years after an alleged ethics violation
7 was committed.

8 Section 10. COMPLAINTS AND INVESTIGATIONS--TIME
9 LIMITATIONS.--If a commission has not scheduled a meeting
10 concerning the disposition of a complaint within ninety days
11 after the complaint is received by the commission or has not
12 disposed of the complaint within six months after the complaint
13 was received, the commission shall dismiss the complaint and
14 notify the respondent in writing of the dismissal. A dismissal
15 of a complaint pursuant to this section shall not be public
16 except upon the request of the respondent; provided that the
17 finding shall not disclose any confidential communications,
18 records or other information collected during the investigation
19 of the complaint.

20 Section 11. PROHIBITED ACTIONS.--

21 A. A person shall not take or threaten to take any
22 retaliatory, disciplinary or other adverse action against
23 another person who in good faith:

24 (1) files a complaint with a commission
25 alleging an ethics violation against a state official, state

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1 employee or lobbyist; or

2 (2) provides testimony, records, reports or
3 other information to a commission during an investigation
4 conducted pursuant to the State Ethics Commissions Act.

5 B. Nothing in the State Ethics Commissions Act
6 precludes civil actions or criminal sanctions for libel, slander
7 or other civil or criminal claims against a person who files a
8 false claim under that act.

9 Section 12. TEMPORARY PROVISION--TASK FORCE.--The
10 legislative ethics commission, the executive ethics commission,
11 the public officer ethics commission and the judicial standards
12 commission shall each appoint two members from each of the
13 commissions to an ethics commissions task force to review and
14 make recommendations on the appropriate oversight body for
15 judiciary employees, district attorneys and the staff of the
16 district attorneys. The task force shall convene no later than
17 October 1, 2009 and shall report its findings and
18 recommendations to each of the commissions, the governor and the
19 appropriate interim legislative committee by September 1, 2010.

20 Section 13. APPROPRIATIONS.--

21 A. One hundred thousand dollars (\$100,000) is
22 appropriated from the general fund to the legislative ethics
23 commission for expenditure in fiscal year 2010 to carry out the
24 provisions of the State Ethics Commissions Act. Any unexpended
25 or unencumbered balance remaining at the end of fiscal year 2010

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1 shall revert to the general fund.

2 B. One hundred thousand dollars (\$100,000) is
3 appropriated from the general fund to the executive ethics
4 commission for expenditure in fiscal year 2010 to carry out the
5 provisions of the State Ethics Commissions Act. Any unexpended
6 or unencumbered balance remaining at the end of fiscal year 2010
7 shall revert to the general fund.

8 C. One hundred thousand dollars (\$100,000) is
9 appropriated from the general fund to the public officer ethics
10 commission for expenditure in fiscal year 2010 to carry out the
11 provisions of the State Ethics Commissions Act. Any unexpended
12 or unencumbered balance remaining at the end of fiscal year 2010
13 shall revert to the general fund.

14 Section 14. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--
15 The legislative ethics commission, the executive ethics
16 commission and the public officer ethics commission are
17 terminated on July 1, 2011 pursuant to the provisions of the
18 Sunset Act. The commissions shall continue to operate according
19 to the provisions of the State Ethics Commissions Act until July
20 1, 2012. Effective July 1, 2012, the State Ethics Commissions
21 Act is repealed.

22 Section 15. APPLICABILITY.--The provisions of the State
23 Ethics Commissions Act apply to a state official, state
24 employee, government contractor or lobbyist who commits an
25 ethics violation on or after July 1, 2009.

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1 Section 16. EFFECTIVE DATE.--The effective date of the
2 provisions of this act is July 1, 2009.

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